

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

LEO L. SOTO et al.,

Plaintiffs,

vs.

COUNTRYWIDE HOME LOANS, INC. et al.,

Defendants.

3:11-cv-00693-RCJ-VPC

ORDER

The Court granted motions to dismiss in this residential foreclosure case because the foreclosure was statutorily proper based upon the public records adduced. Plaintiffs have asked the Court to reconsider. The motion consists of a copy of *Pasillas v. HSBC Bank USA*, 255 P.3d 1281 (Nev. 2011) without attendant argumentation. In *Pasillas*, the Court held that when a mortgagee fails to send a representative to the state Foreclosure Mediation Program (“FMP”) mediation with authority to modify the loan, or when that representative fails to bring certain documents to the mediation, a district court abuses its discretion in ordering the issuance of an FMP certificate and failing to award sanctions under Nevada Revised Statutes 107.086(5). *See id.* at 1285–87.

Defendants in the present case had obtained an FMP certificate permitting non-judicial foreclosure to proceed. (FMP Certificate, June 8, 2011, ECF No. 3-1, at 32). A party aggrieved by the FMP process may obtain *de novo* review in the state district court. *See Pasillas*, 255 P.3d at 1284–85 & n.8 (citing Nevada F.M. Rule 21(5)). The rule vests jurisdiction for direct review of mediation proceedings exclusively in the state courts. *See* F.M. Rule 21(1) (2011) (“A party to

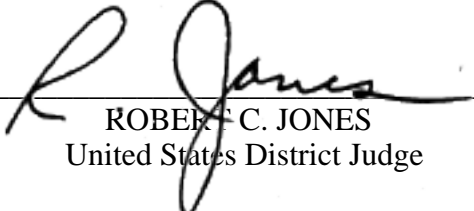
1 the mediation may file a petition for judicial review with the district court in the county where
2 the notice of default was properly recorded. A hearing shall be held, to the extent that the court
3 deems necessary, for the limited purposes of determining bad faith, enforcing agreements made
4 between the parties within the Program, including temporary agreements, and determining
5 appropriate sanctions pursuant to NRS Chapter 107 as amended.”). Insofar as Plaintiff implicitly
6 means to ask the Court to amend the Complaint to plead a claim for direct review of the
7 propriety of the FMP proceedings, the Court lacks subject matter jurisdiction.

8 **CONCLUSION**

9 IT IS HEREBY ORDERED that the Motion to Reconsider (ECF No. 37) is DENIED.

10 IT IS SO ORDERED.

11 Dated this 19th day of December, 2011.

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13 ROBERT C. JONES
14 United States District Judge
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